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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,452	12/15/2003	Conrad S. Mikulec	CM04	1451
27797	7590	07/14/2006	EXAMINER	
<b>RICHARD D. FUERLE</b> 1711 W. RIVER RD. GRAND ISLAND, NY 14072				BARNEY, SETH E
		ART UNIT		PAPER NUMBER
		3752		

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/707,452	MIKULEC, CONRAD S.
	Examiner	Art Unit
	Seth Barney	3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 April 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 17-21 is/are allowed.  
 6) Claim(s) 1-3,5,6 and 8-16 is/are rejected.  
 7) Claim(s) 4 and 7 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 June 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                             |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                        | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 17, 2006 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-3, 5, 6, 8, 9, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,979,572 to Mikulec.

Regarding claim 1, Mikulec discloses a fire extinguishing actuator having:  
-an elongated body having two ends made of single piece (not expressly numbered). See Figure 3.  
-a longitudinal chamber that extends through the body, for holding a ram (101) and a spring (108) for propelling the ram and one of the ends has means for attaching a cable box. See Figure 3.

-a first transverse aperture that joins the chamber for holding a trigger (37) that releases the spring. See Figure 3.

-a second transverse aperture that joins the chamber at about a right angle for holding a member that moves in response to movement of the ram, where movement of the member activates the release of the composition from the cylinder. See Figure 3 and column 3 lines 41 to 56.

Mikulec does not disclose that the spring is stopped by the body at one the ends. Figure 4 of Mikulec discloses an integral configuration, which includes a shoulder formed in a tube (160) acting as a support for a biasing spring (163). Mikulec teaches the use of an integral shoulder configuration in a single tube to support a spring. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the integral shoulder configuration taught by Figure 4 of Mikulec for the two piece configuration of Figure 3 in order to provide a more mechanically stable actuator.

Regarding claim 2, a microswitch (124) is attached to one end of the chamber. See Figure 3.

Regarding claim 3, a cable (140) that slides in a sheath (126) and is activated by the ram is attached at one end of the chamber. See Figures 2 and 3.

Regarding claim 5, a fusible link (36) is attached between the trigger and on end of the body. See Figure 1.

Regarding claim 6, the member is a plunger (41) that pierces a seal on the cylinder. See Figure 3.

Regarding claim 8, both apertures are circular in cross section. See Figures 2 and 3.

Regarding claim 9, the actuator includes a ram (101), a compressed spring (108) within the longitudinal chamber, a trigger (37) within the first aperture, and a member (41) within a second aperture.

Regarding claim 14, the system is a fire extinguisher.

Regarding claim 15, the fire extinguisher is mounted in a hood. See Figure 1.

4. Claims 10-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,979,572 to Mikulec.

Mikulec, as modified, discloses all of the limitations set forth in the claims except for the main body is an extruded piece of metal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to extrude the elongated body part in order to easily and cheaply produce a long profile piece.

#### ***Allowable Subject Matter***

5. Claims 17-21 are allowed.
6. Claims 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-

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4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

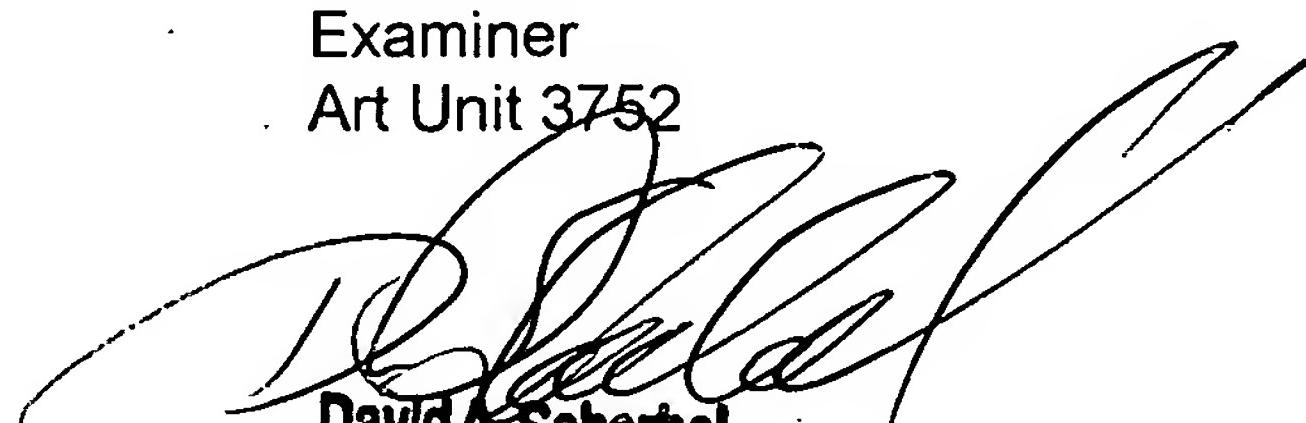
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Seth Barney

Examiner

Art Unit 3752



David A. Scherbel  
Supervisory Patent Examiner  
Group 3700

sb  
